



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Fifteenth day of May Two Thousand Nineteen
PRESENT

The Hon`ble Mr Justice B.PUGALENDHI

CRL OP (MD) No.6874 of 2019

WEB COPY

J.JOSEPH PARVEEN FERNANDEZ ... PETITIONER / ACCUSED NO.1
Vs

1 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THOOTHUKUDI (CR.NO.16/2018) ... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.S.M.A.JINNAH Advocate

For Respondent : M/S.S.BHARATHI, Govt. Advocate (Crl. Side)

PETITION FOR Anticipatory BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 498(A), 294(b), 506(i), 494, 511 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 in Crime No.16 of 2018 on the file of the respondent police, seek anticipatory bail.

2.Heard Mr.S.M.A.Jinnah, learned Counsel for the petitioner, Mr.A.Robinson, learned Government Advocate (Crl Side) appearing for the State.

3.The case of the prosecution is that this petitioner and the defacto complainant's marriage was solemnized on 26.10.2015 at Tuticorin as per Christian customs. At the time of marriage 100 sovereigns of gold and Rs.5 Lakhs were given as dowry and Rs.10 Lakhs was spent by the defacto complainant's parents. The petitioner was working at Qatar at the time of marriage. The defacto complainant was also taken to Qatar. After the child birth, the petitioner has avoided the defacto complainant and abused her and started demanding additional dowry. The parents of the petitioner have also attempted to marry another women to the



petitioner. In the circumstances, a complaint was lodged and the respondent police registered a case.

4. This petitioner along with his parents moved an anticipatory bail before this Court in Crl.O.P.(MD)No.18036 of 2018. The defacto complainant had objected to the grant of bail by filing an intervening application. Taking note of the objections raised by the defacto complainant, this Court by order dated 12.03.2019 granted bail to the parents of the petitioner, but declined anticipatory bail with regard to this petitioner.

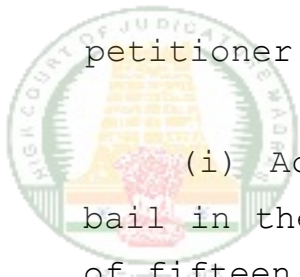
5. This second application is filed by the petitioner for the case registered on 06.10.2018 and the investigation is almost completed and on the change of circumstances, the petitioner shall be considered for grant of anticipatory bail.

6. The learned Government Advocate opposed the grant of bail that there are no change of circumstances. But the fact remains that the case was registered on 06.10.2018 and the investigation has also been completed substantially.

7. Considering the nature of offences and the fact that the investigation has also been proceeded to some extent, this Court is inclined to grant anticipatory bail to the petitioner. However, the learned Government Advocate opposed the grant of anticipatory bail on the ground that the petitioner's presence cannot be ensured for the trial.

8. In such view of the objections, this Court is imposing an additional condition that the petitioner shall file an affidavit that he will not abscond and he would abide by the due process of law and co-operate for the investigation and for the trial. The petitioner shall also produce the Aadhar card for the proof of his address.

9. Taking into consideration of the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the



petitioner on the following conditions:

(i) Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy was made ready before the learned Judicial Magistrate No.III, Tuticorin on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each, for a like sum to the satisfaction of the respondent Police and on further conditions that:-

[a] the petitioners as well as the sureties shall submit a copy of their Aadhar card or any other identity cards issued by the Government, in proof of their address, along with the surety bonds.

[b] the petitioners shall report before the respondent police as and when required for interrogation.

[c] the petitioners shall not tamper the evidence or witness either during investigation or trial.

[d] the petitioners shall co-operate for the investigation and the trial. The petitioners shall not abscond either during investigation or trial and in event of the petitioners abscond, the respondent police shall register a case as provided under Section 229-A IPC.

[e] in the event of breach of any of the aforesaid conditions, the learned Magistrate / trial Court is entitled to take appropriate action against the petitioners, as per the principles laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

sd/-
15/05/2019

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TO

1 THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI

2 THE JUDICIAL MAGISTRATE NO.III,
THOOTHUKUDI

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THOOTHUKUDI
(CR.NO.16/2018)

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.S.M.A.JINNAH Advocate SR.No.8492

ORDER

IN

CRL OP (MD) No.6874 of 2019

Date :15/05/2019

KK/SAR/17.05.2019/ 4P- 6C